



**STATE OF NEW JERSEY**

In the Matter of Cary Liverpool,  
Police Officer (S9999U), Parsippany

CSC Docket No. 2018-2849

**FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION**

List Removal Appeal

**ISSUED: SEPTEMBER 7, 2018 (SLK)**

Cary Liverpool appeals his removal from the eligible list for Police Officer (S9999U), Parsippany on the basis that he possessed an unsatisfactory background.

The appellant took the open competitive examination for Police Officer (S9999U), achieved a passing score, and was ranked on the subsequent eligible list. In seeking his removal, the appointing authority indicated that the appellant possessed an unsatisfactory background. Specifically, its background report indicated that the appellant acknowledged on his application that he had been stopped numerous times by law enforcement for tinted window violations. Further, when the appointing authority questioned the appellant about this, he responded that he understood that having tinted windows on his vehicle was a violation of law, but he did not provide any explanation as to why he did not take corrective action. Therefore, the appointing authority concluded that the appellant did not meet the high standards to be a Police Officer.

On appeal, the appellant presents that he has been an Essex County Correction Officer for over 11 years and he served in the Army National Guard for over eight years, including one tour in Iraq which lasted over a year. Additionally, he presents that he has disabled veterans preference. The appellant states that he had secret clearance in the military and believes that there nothing in his background that should prevent him from becoming a Police Officer. He emphasizes that both the Essex County Department of Corrections and the Essex County Sheriff's Office

found that he had a satisfactory background when he applied for positions with those organizations. The appellant disputes that he did not provide the appointing authority with a legitimate reason as to why he had tinted windows on his vehicle. Instead, he claims that he told the investigator that his windows were tinted due to safety concerns because he is a Correction Officer and is concerned that previous inmates may want to harm him. Additionally, he expressed safety concerns for himself and his family because they live in a high crime city. The appellant indicates his car was robbed and highjacked when his windows were not tinted. He claims that half of the Parsippany Police Officers have tinted windows on their personal vehicles. The appellant questions why he was called in for an interview when the appointing authority was already aware that he had tinted window violations on his record. He believes that the Motor Vehicle Commission no longer requires tinted windows to be removed from a vehicle. The appellant emphasizes that many police vehicles, including the State Police, have tinted windows and argues that there is no difference between a police vehicle and a regular citizens' vehicle concerning tinted windows.

In response, the appointing authority submits the appellant's application where he indicated that he was stopped by law enforcement for tinted windows on five occasions, with the most recent being October 2017. Additionally, it submits the New Jersey Automated Traffic System Ticket Inquiry Display which shows that the appellant received numerous motor vehicle tickets, including tickets for violations of *N.J.S.A. 39-3-75*, Safety Glass. Further, the appointing authority presents a letter submitted to the Division of Agency Services in support of its request to remove the appellant's name from the list which indicates that the appellant acknowledged to the appointing authority that he was aware that having tinted windows on his vehicle was illegal, failed to take corrective action to remove the tint from his vehicle and failed to give an explanation as to why he continued to have tinted windows despite numerous motor vehicle stops and warnings concerning his tinted windows.

## CONCLUSION

*N.J.A.C. 4A:4-4.7(a)1*, in conjunction with *N.J.A.C. 4A:4-6.1(a)9*, allows the Civil Service Commission (Commission) to remove an eligible's name from an eligible list for other sufficient reasons. Removal for other sufficient reasons includes, but is not limited to, a consideration that based on a candidate's background and recognizing the nature of the position at issue, a person should not be eligible for appointment. Additionally, the Commission, in its discretion, has the authority to remove candidates from lists for law enforcement titles based on their driving records since certain motor vehicle infractions reflect a disregard for the law and are incompatible with the duties of a law enforcement officer. *See In the Matter of Pedro Rosado v. City of Newark*, Docket No. A-4129-01T1 (App. Div. June 6, 2003); *In the Matter of Yolanda Colson*, Docket No. A-5590-00T3 (App. Div. June 6, 2002); *Brendan W. Joy v. City of Bayonne Police Department*, Docket No. A-6940-96TE (App. Div. June 19, 1998).

*N.J.A.C.* 4A:4-6.3(b), in conjunction with *N.J.A.C.* 4A:4-4.7(d), provides that the appellant has the burden of proof to show by a preponderance of the evidence that an appointing authority's decision to remove his or her name from an eligible list was in error.

In this matter, the appointing authority had a legitimate reason for removing the appellant's name from the list. Specifically, the appellant had been ticketed numerous times for having tinted windows on his personal vehicle, in violation of *N.J.S.A.* 39:3-75. Further, the appellant continued to drive his personal vehicle which has led to numerous stops by law enforcement, including as recently as October 2017, which was after the March 29, 2017 closing date for the subject examination. Further, even if the appellant had explained to the appointing authority that he used tinted windows on his vehicle due to perceived safety concerns, this explanation would not be relevant. Under *N.J.A.C.* 13:20-33.7, a motor vehicle, other than a police vehicle or a motor vehicle for which a medical exemption certificate has been issued by the Motor Vehicle Commission in accordance with *N.J.S.A.* 39:3-75.1, shall not have tinted windows in the front windshield or side shields to the immediate right or left of the driver. Accordingly, the appellant's comments about Parsippany Police and other police vehicles using tinted windows are irrelevant as such use is permissible under *N.J.A.C.* 13:20-33.7. Additionally, the appellant has not claimed that he received a medical exemption certification from the Motor Vehicle Commission. Moreover, while the appellant claims that the Motor Vehicle Commission no longer requires tinted windows to be removed, based on the aforementioned regulation, this is clearly not the case.

The appellant's failure to take corrective action concerning his tinted windows despite previous tickets and numerous recent stops for his continued violation of *N.J.S.A.* 39:3-75.1 evidences a disregard for the motor vehicle laws and the exercise of poor judgment. The appellant has offered no substantive explanation for these infractions. In this regard, it is recognized that a municipal Police Officer is a law enforcement employee who must enforce and promote adherence within to the law. Municipal Police Officers hold highly visible and sensitive positions within the community and that the standard for an applicant includes good character and an image of the utmost confidence and trust. It must be recognized that a municipal Police Officer is a special kind of employee. His primary duty is to enforce and uphold the law. He carries a service revolver on his person and is constantly called upon to exercise tact, restraint and good judgment in his relationship with the public. He represents law and order to the citizenry and must present an image of personal integrity and dependability in order to have the respect of the public. *See Moorestown v. Armstrong*, 89 *N.J. Super.* 560, 566 (App. Div. 1965), *cert. denied*, 47 *N.J.* 80 (1966). *See also In re Phillips*, 117 *N.J.* 567 (1990). While the Commission acknowledges the appellant's current work in law enforcement and his military service, given the standards for Police Officers, the appellant has not met his burden of proof in this

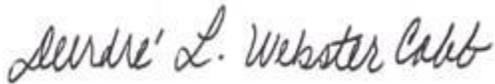
matter and the appointing authority has shown sufficient cause for removing his name from the Police Officer (S9999U), Parsippany eligible list.

**ORDER**

Therefore, it is ordered that his appeal be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
THE 5<sup>th</sup> DAY OF SEPTEMBER, 2018



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